C.B.II—No. 370--Vol. VII

COMMITTEE ON SUBORDINATE LEGISLATION

(TENTH LOK SABHA)

SEVENTH REPORT

(Presented on 2.3.1993)

LOK SABHA SECRETARIAT
NEW DELHI

February, 1993/Phalguna, 1914 (Saka)

Price: Rs. 16.00

LOK SABHA SECRETARIAT

CORRIGENDA

TO

THE SEVENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA)

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(1992-93)

1. Shri Somnath Chatterjee —*Chairman*
2. Shri Frank Anthony
3. Shri R. Dhanuskodi Athithan
4. Shri Chhitubhai Gamit
5. Dr. K.D. Jeswani
6. Shri Ram Singh Kashwan
7. Shri Guman Mal Lodha
8. Shri Ram Niwas Mirdha
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11. Shri Mohan Singh
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13. Shri Tara Singh
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15. Shri Ratilal Kalidas Varma

SECRETARIAT

Shri G.L. Batra — *Additional Secretary*

Shri S.C. Gupta — *Joint Secretary*

Shri R.K. Chatterjee — *Deputy Secretary*

Shri Ram Kumar — *Under Secretary*

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to submit the Report on their behalf, present this Seventh Report.

2. The matters covered by the Report were considered by the Committee at their sittings held on 12 Novermber, 1992 and 22 January, 1993.

3. The Committee considered and adopted this Report at their sitting held on 26 February, 1993. The minutes of the sittings relevant to this Report are appended to it.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the report and have also been reproduced in a consolidated form in Appendix I to the Report.

II

(1) THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) SCHEME, 1991 (GSR 343 OF 1991); AND

(2) THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) SCHEME, 1992 (GSR 293 OF 1992).

5. The Employees' Provident Funds (Amendment) Scheme, 1991 was published in the Gazette of India dated 1 June, 1991 but was deemed to have come into force on 1 April, 1991 retrospectively. However, the notification was not accompanied with the requisite explanatory memorandum stating the reasons for such retrospective effect and also certifying that interests of nobody would be adversely affected thereby. On 18 February, 1992, a reference in the matter was made to the concerned Ministry of Labour for clarification. In their reply dated 3 September, 1992, the Ministry stated that "a revised notification has since been issued". The revised notification was published in the Gazette of India dated 20 June, 1992 but was deemed to have come into force on 1 May, 1990 and thus it extended the period of retrospec-

tive application by another 11 months. The explanatory note appended to the revised notification read as under:—

> "It has become necessary to give retrospective effect to the amendment in para 68-L of the EPF Scheme, 1952 because the proposal for amendment was received late and its processing also took time. However, it is certified that the amendment of para 68-L with retrospective effect will not affect interest of anybody adversely."

6. The Committee note that the Employees' Provident Funds (Amendment) Scheme, 1991 was brought into force retrospectively from 1 April, 1991 but it was not accompanied with the usual explanatory memorandum stating the reasons for such retrospective operation and also certifying that the interests of nobody would be adversely affected thereby. When so pointed out by the Committee, the Ministry of Labour brought out yet another notification (GSR 293 of 1992) in June, 1992 repeating the same amendment with effect from 1 May, 1990 instead of 1 April, 1991, extending the period of retrospective application by further 11 months. The explanatory memorandum appended to the latter notification indicated that the retrospective effect had become necessary as the proposal for amendment had been received late and its processing had also taken some time. But it did not explain the reasons for upward shifting the date of retrospective application from 1 April, 1991 to 1 May, 1990.

7. The Committee regret to observe that the Ministry of Labour had not taken up the matter connected with the amendment to the statutory 'Orders' with the Urgency and Seriousness it deserved as would reveal from the lackadaisical manner in which the two notifications have been dealt with. The Committee do expect the Ministry to be careful enough in processing the vital matters which may affect quite a large number of Employees' Provident Fund beneficiaries and desire them to evolve suitable measures to plug any loopholes in the system so as to cut short the procedural delays to the minimum. The Committee would further like to observe that the Ministry should as well be prompt in replying to the references made by the Parliamentary Committee, for in the instant case, they had taken more than six months in furnishing the information to the Committee.

III

THE INDO-TIBETAN BORDER POLICE, SUB-INSPECTOR (COMPOUNDER/STORES/PHARMACIST) RECRUITMENT RULES, 1992 (GSR 104 OF 1992)

(A)

8. In exercise of the powers conferred by Section 18 of the Central Reserve Police Force Act, 1949, the Central Government framed the Indo-Tibetan Border Police, Sub-Inspector (Compunder/Stores/Pharmacist) Recruitment Rules, 1992 (published in the Gazette of India, Part II, Section 3(i), dated 7 March, 1992). Rule 5 of the rules *ibid* read as under:—

> "5. *Other Conditions of Service*—The provisions of the Central Reserve Police Force Act, 1949 (66 of 1949) and the Central Reserve Police Force Rules, 1955 shall apply to persons appointed under the provisions of these rules in respect of other conditions of service not specifically provided for in these rules."

9. The concerned Ministry of Home Affairs were requested to state as to what were the 'other conditions of service' not specifically provided for in these rules and whether it would not be expedient to specify them to make the rules self-contained. Later, it was also pointed out to the Ministry that since the extant recruitment rules were framed under the powers conferred by the same Act *viz.*, the Central Reserve Police Force Act, any further reference as to its applicability in the body of the rules appeared to be redundant and it should be omitted. In their replies dated 16 September and 2 November, 1992, the Ministry stated as under:—

> "Other conditions of service not specifically provided in these rules are concerning physical standards, age of superannuation, disciplinary control etc. Since ITBP is being governed by CRPF Act, 1949 and CRPF Rules, 1955, it is not considered necessary to include all those conditions in the recruitment rules made for specific category of posts."
>
> "The said recruitment rules are framed under the powers conferred by section 18 of CRPF Act, 1949 and therefore provisions of this Act becomes applicable automatically. However, other service conditions..... have been prescribed under CRPF Rules, 1955 made under section 18 of CRPF Act, and it is felt that their applicability needs to be mentioned in these rules. It may be

added here that similar provision exists in all such recruitment rules framed for other such posts in ITBP under section 18 of CRPF Act, 1949. However, in case Lok Sabha Secretariat/ Committee on Subordinate Legislation consider it necessary to omit rule 5 from the recruitment rules under examination, action shall be initiated by this Ministry for the same."

10. The Committee observe that as the Indo-Tibetan Border Police personnel is governed by the Central Reserve Police Force Act of 1949, such personnel is bound to follow the provisions of that Act and the rules made thereunder automatically. Hence, any mention as to the applicability of the parent statute and the rules made thereunder in the recruitment rules providing for appointment to any specific category of posts in that organisation would merely tend to be superfluous. The Committee do not also see any force in the argument that similar provisions have already crept into several other recruitment rules for the posts in the Indo-Tibetan Border Police. The Committee, therefore, desire the Ministry of Home Affairs to omit rule 5 (regarding other conditions of service) of the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules and the identical provisions occurring in the other recruitment rules, at the earliest.

(B)

11. Column 2 of the Schedule appended to the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992, indicated that there were as many as 83 posts of Sub-Inspectors (Compounders/Stores/Pharmacists). The concerned Ministry of Home Affairs were enquired whether all these posts were newly created or any incumbents had been working against these posts prior to coming into force of the recruitment rules on 7 March, 1992; and if so, how the interests of the incumbents already working against these posts were sought to be protected, as the appointments made earlier could not be regularised without making necessary provisions therefor under these rules. Later, the Ministry were further asked to give full details of such appointments, if any. In their replies dated 16 September and 2 November, 1992, the Ministry stated as under:—

"All the posts included under column 2 are not newly created. *Ad hoc* appointments were made in the past, which have since been regularised as the incumbents possessed requisite educational and other qualifications."

".....a statement showing the details of appointments made prior to 7 March, 1992 is appended*. Nine out of the 44 persons have since voluntary retired/expired/changed to other cadres."

"The Recruitment Rules were vetted by Ministry of Law before their notification."

12. The Committee note that the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 came into force on 7 March, 1992 i.e. the date of their publication in the official Gazette, and provided for cent per cent direct recruitment to the posts of Sub-Inspectors.

The Committee, however, find that contrary to the laid down position, as many as 44 appointments had already been made on ad hoc basis and since also regularised with retrospective effect right from December, 1978 onwards without due legal authority. Though the Committee are not averse to the regularisation of staff which was appointed on ad hoc basis, they would like to uphold that the recruitment rules brought out for the purpose should as well reflect the true and correct position. The Committee, therefore, desire the Ministry of Home Affairs to take necessary corrective action, in consultation with the Ministry of Law, for incorporation of the suitable saving clause in the recruitment rules of 1992 with a view to impart validity to the action already taken with retrospective effect.

IV

THE CANTONMENT FUND SERVANTS (AMENDMENT) RULES, 1991 (S.R.O. 66 OF 1991)

13. The Cantonment Fund Servants (Amendment) Rules, 1991 were published in the Gazette of India dated 9 March, 1991. Preamble to the amendment rules stated that the draft of the amendment rules was published in the Gazette of India on 21 April, 1990 inviting objections and suggestions from all persons likely to be affected thereby, till the expiry of 60 days of such publication. However, this period of 60 days was drastically reduced to mere 16 days as the copies of the gazette were made available to the public on 4 June, 1990. The concerned Ministry of Defence were requested to state (i) whether the period was later extended to enable all concerned to make suggestions/objections; (ii) whether any service organisations were consulted in the matter; (iii) the nature of objections/suggestions received; and (iv) the steps taken to avoid recurrence of such a situation in future. In their reply dated 5 October, 1992, the Ministry stated as under:—

"Rule 9 of Cantonment Fund Servants Rules, 1937 vested powers on the President Cantonment Board to make recruitment on temporary basis for a period not exceeding six months. This rule was omitted by Cantonment Fund Servants (Amendment) Rules, 1991 vide SRO 66

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* Reproduced at Appendix II.

of 1991. The parties affected by the said amendment were mainly the Cantonment Boards and not the general public. The draft notice dated 26.3.90 was published in the Gazette dated 21.4.90 and the same was made available to public on 4.6.90. Cantonment Boards were made aware of the proposed amendment *vide* DGDE's letter dated 2.5.90. Though no formal extension of the prescribed period of sixty days was made, it has been reported that objections/suggestions received upto 14.8.90 were considered before issue of the proposed amendment. A gist of objections raised by certain Cantonments is enclosed* as desired by Lok Sabha Secti.

However, to avoid recurrence of such cases in future, DGDE has been instructed to include a para in all such draft public notices, stating that the prescribed period of sixty days will be reckoned from the date of the Gazette of the draft public notice proposing amendment to the statutory Rules/Orders is made public and not the date on which it is published in the Gazette."

14. The Committee find that the prescribed period of 60 days for inviting public comments on the draft amendment rules was reduced to mere 16 days in actual practice as the gazette copies could be made available to the public much later. Though no formal extention of the prescribed period was notified, Government did consider objections/suggestions as received upto 14 August, 1990 *i.e.* a little beyond 60 days before issue of final notification. The Cantonment Boards as they were affected by the proposed amendment, were also informed through a circular letter by the DGDE. The gist* of objections goes to indicate that the Cantonment Boards of Jhansi, Dehradun, Agra, Kirkee, Jabalpur and Saugor have opposed the proposed amendment *i.e.* omission of rule 9 which vested power on the Cantonment Board to made recruitment on temporary basis for a period not exceeding six months.

15. The Committee note that with a view to avoid recurrence of such cases in future, the Ministry have issued instructions that the public notices inviting comments on the draft amendments to the rules should prescribe for reckoning the period of 60 days from the date on which the copies of the gazettte are made available to the public rather than from the date of publication of the gazette. The Committee expect the Ministry of Defence to be ever watchful and take all necessary steps to ensuring that adequate opportunity is given to the public for study and sending their comments on the draft amendment rules and the period prescribed for the purpose is not rendered just illusory.

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* Reproduced at Appendix III.

V

THE MINISTRY OF SURFACE TRANSPORT (TRANSPORT WING) SENIOR ANALYST (WORK STUDY) RECRUITMENT RULES, 1992 (GSR 90-E OF 1992)

16. The Ministry of Surface Transport (Transport Wing) Senior Analyst (Work Study) Recruitment Rules, 1992 (published in the Gazette of India: Extraordinary, Part II, Section 3(i), dated 7 February, 1992) did not contain the usual Saving Clause regarding reservations for Scheduled Castes, Scheduled Tribes and other special categories of persons as prescribed by the then Department of Personnel and Administrative Reforms *vide* O.M. No. 36011/9/76-Est. (SCT) dated 7 March, 1978, namely:—

> "*Saving:* Nothing in these rules shall affect reservations, relaxation of age-limit and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard."

17. The matter was taken up with the concerned Ministry of Surface Transport (Transport Wing) for elucidation. In their reply dated 12 October, 1992, the Ministry stated as under:—

> ".....Senior Analyst (Work Study) Recruitment Rules, 1992 were notified on the basis of Model Recruitment Rules for this post circulated by the then Department of Personnel & Administrative Reforms *vide* their O.M. No. 22012/1/77-O&M dated 14.4.80 which did not contain the Saving Clause. Action is, however, being taken to amend the said Recruitment Rules to incorporate the Saving Clause. Lok Sabha Secretariat will be intimated in this regard in due course."

18. The Committee note that, on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Senior Analyst (Work Study) Recruitment Rules to provide for reservations for Scheduled Castes, Scheduled Tribes and other special categories of persons on the usual lines. The Committee desire the Ministry to do the needful expeditiously.

VI

THE MINISTRY OF HOME AFFAIRS (GROUP 'D' POSTS) RECRUITMENT (AMENDMENT) RULES, 1992 (GSR 37 OF 1992)

19. The Ministry of Home Affairs (Group 'D' Posts) Recruitment (Amendment) Rules, 1992 (GSR 37 of 1992) were published in the Gazette of India, Part II, Section 3(i), dated 1 February, 1992. It was noticed that the notification did not contain the usual foot-note indicating the particulars of publication of the principal rules and the subsequent amendments made thereto, for facility of reference. The matter was taken up with the concerned Ministry of Home Affairs for ascertaining their

comments. In their reply dated 21 October, 1992, the Ministry stated as under:—

> ".....that the matter has been carefully considered. It is proposed to review the recruitment rules for all Group 'D' posts available in this Ministry and notify those rules in supersession of the existing rules, after incorporating the necessary changes. In view of this position it may not be necessary to amend the recruitment rules for the post of Senior Peon by incorporating 'foot-note' as indicated in the Lok Sabha Secretariat Office Memorandum under reference. A copy of each of the amended rules when notified will also be made available to Lok Sabha Secretariat."

20. The Committee note that it has since been proposed to carry out a review of the existing recruitment rules governing Group 'D' posts in the Ministry of Home Affairs with a view to bringing forward fresh recruitment rules after incorporating the necessary changes, in supersession of the existing ones. The Committee do not, therefore, press for an amendment of the notification under reference for incorporating the requisite foot-note. In this connection, the Committee would, however, like to refer to their earlier observations made in para 87 of their Sixth Report (Seventh Lok Sabha) which read as under:

> **"The Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit."**

21. The Committee note with concern that despite their categorical findings in this regard, the Ministry have failed to indicate particulars of the previous amendments by way of a foot-note to the amending notification. The Committee cannot but reiterate their earlier recommendation in this regard and desire the Ministry to evolve suitable safeguards against recurrence of such lapses.

VII

THE CENTRAL WATER COMMISSION (NON-MINISTERIAL GROUP 'C' POSTS) RECRUITMENT RULES, 1992 (GSR 53 OF 1992)

22. The Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 (GSR 53 of 1992) were published in the Gazette of India, Part-II, Section 3(i), dated 8 February, 1992. The notification was in the nature of an amendment to the principal rules of 1982 but there was no indication to that effect by way of an amendment number in its short title. The matter was taken up with the concerned

Ministry of Water Resources to ascertain whether they had since issued a corrigendum to rectify the error. In their reply dated 15 October, 1992, the Ministry stated as under:—

> "....a corrigendum for incorporation of the word 'amendment' to the Gazette Notification in respect of the Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 (GSR 53 of 1992) has been issued....."

23. The Committee note that on being pointed out, the Ministry of Water Resources have since issued the requisite corrigendum with a view to identify the Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 as an amendment to the principal recruitment rules of 1982. However, the fact remains that the Ministry moved in the matter only when the error was so pointed out to them by the Committee. The Committee cannot but observe that such a state of affairs reflects poorly on the functioning of the Ministry and that scant attention was being paid to the formulation of amendments to the statutory rules. The Committee, therefore, desire the Ministry to evolve suitable safeguards with a view to avoid recurrence of such a lapse in future.

VIII

THE CENTRAL INDUSTRIAL SECURITY FORCE (FOURTH AMENDMENT) RULES, 1990 (GSR 1 of 1991)

(A)

24. The Central Industrial Security Force (Fourth Amendment) Rules, 1990 (GSR 1 of 1991) were published in the Gazette of India, Part II, Section 3(i), dated 5 January, 1991, whereas the short-title thereto indicated the year of publication as 1990. Normally, the year in the short-title should reflect the year of publication of the rules in the official gazette. The matter was taken up with the Ministry of Home Affairs for clarification. In their reply dated 4 June, 1992, the Ministry stated as under:—

> "Normally the year in the short title conforms to the year in which the rules are published in the gazette. However, in the present case, the rules were sent to the Government of India Press, Mayapuri *vide* letter dated 12.12.90 and the same were published in the weekly gazette dated 5.1.91. While sending rules to the Press in the last month of a year, care will be taken in future to avoid this kind of error."

25. The Committee find that the error in the short title to the Central Industrial Security Force (Fourth Amendment) Rules has crept in due to the fact that the notification was sent by the Ministry of Home Affairs for printing towards the end of year 1990 and whereas it was subsequently published in the gazette in the year 1991. The Ministry have, however, assured that due care would be taken by them in future to avoid this kind

of error while sending rules to the press in the last month of the year. The Committee trust the Ministry would keep up their assurance to the Committee in this regard.

(B)

26. The foot-note appended to the Central Industrial Security Force (Fourth Amendment) Rules, 1990 revealed that some of the amendments made to the principal rules were superscribed with S.O. numbers while several others with G.S.R. numbers. This was apparently due to the publication of the notifications in different parts of the Gazette of India. Normally, the amendment notifications should as well be published under the same part of the gazette in which the principal rules had published, for facility of reference. The matter was taken up with the concerned Ministry of Home Affairs. In their reply dated 4 June, 1992, the Ministry stated as under:

> "Matters of specific nature like Medical facilities to CISF (S.O. No. 444 and 3669), disciplinary matters (S.O. No. 1752), leave facilities to CISF personnel (S.O. No. 167), Uniforms to CISF personnel (S.O. No. 1648), etc. are published under S.O. numbers and matters of general nature are published under G.S.R. numbers."

27. The Committee note with regret that the reply of the Ministry of Home Affairs was far from being satisfactory. The Committee feel that as a general principle, once the original rules are published in a particular section of the official gazette, *i.e.* under S.O. numbers or G.S.R. number etc., as the case may be, any further amendments to the original rules should as well be published in the same section of the gazette, as the amendment rules on being notified become part of the original rules and they have no separate entity as such. However, if any subsequent amendments are published in a scattered manner *i.e.* amendments related to some aspects in one section and amendments related to some other aspects in other section of the gazette, it would lead to inconvenience to the concerned public in keeping a track of such amendments. The Committee, therefore, direct the Ministry to do away with the existing practice of publishing the amendments to the Central Industrial Security Force Rules under different sections of the gazette forthwith and that any further amendments in this behalf must be notified in the same section in which the original rules were published, on a uniform pattern.

(C)

28. The foot-note appended to the Central Security Force (Fourth Amendment) Rules, 1990 further indicated that as many as 55 amendments had already been effected to the original rules ever since their pronouncement in 1969. Obviously, it was no easy task to refer to such a large number of amendments made from time to time and that too in different sections of the gazette. The concerned Ministry of Home Affairs were enquired if a fresh comprehensive order might issue repealing the existing

one, for the sake of convenience. In their reply dated 4 June, 1992, the Ministry stated as under:

> "as regards issuance of a comprehensive order, it is stated that consequent upon the conversion of CISF into an Armed Force of the Union *vide* Act No. 14 of 1983, the CISF Rules are under examination. A comprehensive order repealing the existing ones will be issued after the matter is finalised."

29. The Committee note that consequent upon the conversion of the Central Industrial Security Force into an Armed Force of the Union by Act 14 of 1983, an exercise for issuance of a comprehensive order was already underway. The Committee desire the Ministry to accelerate the process of finalisation and notify the proposed consolidated order at the earliest curtailing any further delay in the matter.

IX

THE VISAKHAPATNAM PORT TRUST EMPLOYEES' (ALLOTMENT OF RESIDENCES) AMENDMENT REGULATIONS, 1992 (GSR 52-E OF 1992)

30. The Visakhapatnam Port Trust Employees' (Allotment of Residences) Amendment Regulations, 1992 were published in the Gazette of India: Extraordinary Part II, Section 3(i), dated 20 January, 1992. The foot-note appended thereto read as under:—

> "NOTE: **Principal Regulations:** *i.e.* Visakhapatnam Port Trust Employees' (Allotment of Residences) Regulations, 1968 have been approved by the Ministry of Transport & Shipping (Transport Wing) in their letter No. 17-PE(49)/67, dated 7.11.1968. These Regulations have been amended as mentioned below:
>
> AMENDMENTS:
>
> (1) Lr. No. 17-PE(73)/72, dt. 4.1.1974
>
> (2) Lr. No. 17-PE(47)/70, dt. 3.6.1971
>
> (3) Lr. No. 17-PE(73)/72, dt. 4.1.1974
>
> (4) Lt. No. 17-PE(73)/72, dt. 18.6.1974
>
> (5) Notification No. PEV-31/79, dt. 22.5.1979
>
> (6) Notification No. PEV-5/81, dt. 14.7.1981
>
> (7) Notification No. PR-12016/24/88-PE.I, dt. 14.12.1988."

31. It was noticed that in the foot-note, the references to the original regulations and the subsequent amendments were given without indicating the GSR numbers and the dates of their publication in the official gazette. For facility of reference, normally the GSR numbers with dates of principal/subsequent amendments were indicated so that one could keep track of the amendments made to the principal Order from time to time. The concerned Ministry of Surface Transport were requested to intimate

the reasons, if any, for departure from normal practice in this respect. In their reply dated 28 September, 1992, the Ministry stated as under:—

> "....prior to 1980, there was no procedure to lay papers on the Tables of both Houses of Parliament. In so far as principal regulations of Visakhapatnam Port Employees' (Allotment of Residences) was published in Andhra Pradesh Gazette and subsequent amendments thereto upto 1981, were published in the Andhra Pradesh Gazette duly approved by the Central Government, hence no GSR were given at that time. The practice for laying the Regulations on the Tables of both the Houses of Parliament started from 1984 only. As such the last amendment mentioned as No. PR-12016/24/88-PEI, was published under GSR No. 1176(E) dated 14.12.1988, and was placed on the Tables of both Houses of Parliament on 16.2.1989. However, it is stated that this Ministry have no objection to amending the notification to the desired effect."

32. The Committee notes the Visakhapatnam Port Employees' (Allotment of Residences) Regulations, 1968 and subsequent amendments thereto till 1981 were published in the Andhra Pradesh Gazette, as per practice then in vogue. Therefore, no GSR numbers were given to these notifications. Only the last amendment was so published in the Gazette of India under GSR No. 1176(E) of 1988 and the Ministry have no objection to indicating its GSR number etc. in the foot-note.

33. The Committee, in para 45 of their Third Report (First Lok Sabha), have emphasized that "whenever any amendment in the rules is made, the SRO numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment." Since the ministerial file numbers and dates are of little relevance for the purpose of keeping track of the amendments made from time to time, the Ministry would do well to incorporate in the foot-note the particulars of amending notifications in terms of official gazette numbers together with dates of publication only for the sake of uniformity and convenience of the concerned public. The Committee trust the Ministry of Surface Transport would evolve suitable safeguards against possible recurrence of such lapses in future.

NEW DELHI;
February, 1993
Phalguna, 1914 *(Saka)*

SOMNATH CHATTERJEE,
Chairman,
Committee on Subordinate Legislation.

APPENDIX

APPENDIX I

(*Vide* para 4 of the Report)

Summary of Recommendations made in the Seventh Report of the Committee on Subordinate Legislation

(TENTH LOK SABHA)

Sl. No.	Reference to para No. in the Report	Summary of Recommendations
1	2	3
1.	6 and 7	*(1) The Employees' Provident Funds (Amendment) Scheme, 1991 (GSR 343 of 1991)* *(2) The Employees' Provident Funds (Amendment) Scheme, 1992 (GSR 293 of 1992)* The Committee note that the Employees' Provident Funds (Amendment) Scheme, 1991 was brought into force retrospectively from 1 April, 1991 but it was not accompanied with the usual explanatory memorandum stating the reasons for such retrospective operation and also certifying that the interests of nobody would be adversely affected thereby. When so pointed out by the Committee, the Ministry of Labour brought out yet another notification (GSR 293 of 1992) in June, 1992 repeating the same amendment with effect from 1 May, 1990 instead of 1 April, 1991, extending the period of retrospective application by further 11 months. The explanatory memorandum appended to the latter notification indicated that the retrospective effect had become necessary as the proposal for amendment had been received late and its processing had also taken same time. But it did not explain the reasons for upward shifting the date of retrospective application from 1 April, 1991 to 1 May, 1990. The Committee regret to observe that the Ministry of Labour had not taken up the matter connected with the amendment to the statutory 'Orders' with the urgency and seriousness it deserved as would

1	2	3
		reveal from the lackadaisical manner in which the two notifications have been dealt with. The Committee do expect the Ministry to be careful enough in processing the vital matters which may affect quite a large number of Employees' Provident Fund beneficiaries and desire them to evolve suitable measures to plug and loopholes in the system so as to cut short the procedural delays to the minimum. The Committee would further like to observe that the Ministry should as well be prompt in replying to the references made by the Parliamentary Committee, for in the instant case, they had taken more than six months in furnishing the information to the Committee.
2.	10 & 12	*The Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 (GSR 104 of 1992)* The Committee observe that as the Indo-Tibetan Border Police personnel is governed by the Central Reserve Police Force Act of 1949, such personnel is bound to follow the provisions of that Act and the rules made thereunder automatically. Hence, any mention as to the applicability of the parent statute and the rules made thereunder in the recruitment rules providing for appointment to any specific category of posts in that organisation would merely tend to be superfluous. The Committee do not also see any force in the argument that similar provisions have already crept into several other recruitment rules for the posts in the Indo-Tibetan Border Police. The Committee, therefore, desire the Ministry of Home Affairs to omit rules 5 (regarding other conditions of service) of the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/ Pharmacist) Recruitment Rules and the identical provisions occurring in the other recruitment rules, at the earliest.

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		The Committee note that the Indo-Tibetan Boder Police, Sub-Inspector (Compounder/Stores/ Pharmacist) Recruitment Rules, 1992 came into force on 7 March, 1992 *i.e.* the date of their publication in the official Gazette, and provided for cent per cent direct recruitment to the posts of Sub-Inspectors. The Committee, however, find that contrary to the laid down position, as many as 44 appointments had already been made on *ad hoc* basis and since also regularised with retrospective effect right from December, 1978 onwards without due legal authority. Though the Committee are not averse to the regularisation of staff which was appointed on *ad hoc* basis, they would like to uphold that the recruitment rules brought out for the purpose should as well reflect the true and correct position. The Committee, therefore, desire the Ministry of Home Affairs to take necessary corrective action, in consultation with the Ministry of Law, for incorporation of the suitable saving clause in the recruitment rules of 1992 with a view to impart validity to the action already taken with retrospective effect.
3.	14-15	*The Cantonment Fund Servants (Amendment) Rules, 1991 (S.R.O. 66 of 1991)* The Committee find that the prescribed period of 60 days for inviting public comments on the draft amendment rules was reduced to mere 16 days in actual practice as the gazette copies could be made available to the public much later. Though no formal extention of the prescribed period was notified, Government did consider objections/suggestions as received upto 14 August, 1990 *i.e.* a little beyond 60 days before issue of final notification. The Cantonment Boards as they were affected by the proposed amendment, were also informed through a circular letter by the DGDE. The gist* of objections goes to indicate that the cantonment Boards of Jhansi, Dehradun, Agra, Kirkee, Jabalpur and Saugor have opposed the proposed amendment *i.e.* omission of rule 9 which vested power on the Cantonment Board to make recruitment on temporary basis for a period not exceeding six months.

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		The Committee note that with a view to avoid recurrence of such cases in future, the Ministry have issued instructions that the public notices inviting comments on the draft amendments to the rules should prescribe for reckoning the period of 60 days from the date on which the copies of the gazette are made available to public rather than from the date of publication of the gazette. The Committee expect the Minsitry of Defence to be ever watchful and take all necessary steps to ensuring that adequate opportunity is given to the public for study and sending their comments on the draft amendment rules and the period prescribed for the purpose is not rendered just illusory.
4.	18	*The Ministry of Surface Transport (Transport Wing) Senior Analyst (Work Study) Recruitment Rules, 1992 (GSR 90-E of 1992)* The Committee note that, on being pointed out by them, the Ministry of Surface Transport have agreed to amend the Senior Analyst (Work Study) Recruitment Rules to provide for reservations for Scheduled Castes, Scheduled Tribes and other special categories of persons on the usual lines. The Committee desire the Ministry to do the needful expeditiously.
5.	20-21	*The Ministry of Home Affairs (Group 'D' Posts) Recruitment (Amendment) Rules, 1992 (GSR 37 of 1992)* The Committee note that it has since been proposed to carry out a review of the existing recruitment rules governing Group 'D' posts in the Ministry of Home Affairs with a view to bringing forward fresh recruitment rules after incorporating the necessary changes, in supersession of the existing ones. The Committee do not, therefore, press for an amendment of the notification under reference for incorporating the requisite foot-note. In this connection, the Committee would, however, like to refer to their earlier observations made in para 87 of their Sixth Report (Seventh Lok Sabha) which read as under:

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		"The Committee are unhappy to note that their recommendation regarding giving of foot-note to the amending rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit." The Committee note with concern that despite their categorical findings in this regard, the Ministry have failed to indicate particulars of the previous amendments by way of a foot-note to the amending notification. The Committee cannot but reiterate their earlier recommendation in this regard and desire the Ministry to evolve suitable safeguards against recurrence of such lapses.
6.	23	*The Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 (GSR 53 of 1992)* The Committee note that on being pointed out, the Ministry of Water Resources have since issued the requisite corrigendum with a view to identify the Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 as an amendment to the principal recruitment rules 1982. However, the fact remains that the Ministry moved in the matter only when the error was so pointed out to them by the Committee. The Committee cannot but observe that such a state of affairs reflects poorly on the functioning of the Ministry and that scant attention was being paid to the formulation of amendments to the statutory rules. The Committee, therefore, desire the Ministry to evolve suitable safeguards with a view to avoid recurrence of such a lapse in future.
7.	25, 27 and 29	*The Central Industrial Security Force (Fourth Amendment) Rules, 1990 (GSR 1 of 1991)* The Committee find that the error in the short title to the Central Industrial Security Force Fourth Amendment) Rules had crept in due to the fact that the notification was sent by the Ministry of Home Affairs for printing towards the end of the year 1990

1	2	3
		and whereas it was subsequently published in the gazette in the year 1991. The Ministry have, however, assured that due care would be taken by them in future to avoid this kind of error while sending rules to the press in the last month of the year. The Committee trust the Ministry would keep up their assurance to the Committee in this regard. The Committee note with regret that the reply of the Ministry of Home Affairs was far from being satisfactory. The Committee feel that as a general principle, once the original rules are published in a particular section of the official gazette, *i.e.* under S.O. numbers of G.S.R. numbers etc., as the case may be, any further amendments to the original rules should as well be published in the same section of the gazette, as the amendment rules on being notified become part of the original rules and they have no separate entity as such. However, if any subsequent amendments are published in a scattered manner *i.e.* amendments related to some aspects in one section and amendments related to some other aspects in other section of the gazette, it would lead to inconvenience to the concerned public in keeping a track of such amendments. The Committee, therefore, direct the Ministry to do away with the existing practice of publishing the amendments to the Central Industrial Security Force Rules under different sections of the gazette forthwith and that any further amendments in this behalf must be notified in the same section in which the original rules were published, on a uniform pattern. The Committee note that consequent upon the conversion of the Central Industrial Security Force into an Armed Force of the Union by Act 14 of 1983, an exercise for issuance of a comprehensive order was already underway. The Committee desire the Ministry to accelerate the process of finalisation and notify the proposed consolidated order at the earliest curtailing any further delay in the matter.

1	2	3
8.	32-33	*The Visakhapatnam Port Trust Employees' (Allotment of Residences) Amendment Regulations, 1992 (GSR 52-E of 1992)* The Committee note the Visakhapatnam Port Employees' (Allotment of Residences) Regulations, 1968 and subsequent amendments thereto till 1981 were published in the Andhra Pradesh Gazette, as per practice then in vogue. Therefore, no GSR numbers were given to those notifications. Only the last amendment was so published in the Gazette of India under GSR No. 1176(E) of 1988 and the Ministry have no objection to indicating its GSR number etc. in the foot-note. The Committee, in para 45 of their Third Report (First Lok Sabha), have emphasized that "whenever any amendment in the rules is made, the SRO numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment." Since the ministerial file numbers and dates are of little relevance for the purpose of keeping track of the amendments made from time to time, the Ministry would do well to incorporate in the foot-note the particulars of amending notifications in terms of official gazette numbers together with dates of publication only for the sake of uniformity and convenience of a concerned public. The Committee trust the Ministry of Surface Transport would evolve suitable safeguards against possible recurrence of such lapses in future.

APPENDIX II

(*Vide* para II of the Report)

Details of Personnel Appointed/Promoted as SI (Comp./Store) Prior to 7th March, 92 i.e. Notification of Rectt. Rules

No.	Regtl. No.	Rank	Name	Ed.	Professional qualification	Date of birth	Date of Apptt.	Date of promotion as HC/Civil (Comp.)	Date of promotion to present rank
1	2	3	4	5	6	7	8	9	10
			PROMOTED VIDE DTE. GENL. ORDER NO. 1.19014/12/78-ESTT. DT. 30.11.78						
1.		Pharm. (Civil)	Kampta Prasad	Matric	Dip in Pharmacy	2.1.41	16.8.63	—	2.12.78
2.	650010094	SI (Comp.)	Birendra Singh	Inter	-do-	18.1.47	27.6.65	15.7.67	5.12.78
3.	670070127	-do-	V.K. Tiwari	Hr. Sec.	-do-	3.4.42	26.10.67	1.1.70	5.12.78
4.	660050071	-do-	Jeet Singh	Inter	-do-	4.2.49	29.4.66	15.7.71	11.1.79
5.	660080086	-do-	Sarju Dayal	Matric	-do-	—	1.1.66	4.8.71	2.12.78
6.	690020026	-do-	Nardev Singh	XII	-do-	20.5.48	3.4.69	4.7.72	6.12.78
7.	678000082	-do-	N.S. Dhami	B.A.	-do-	8.4.47	1.12.67	26.7.72	16.12.78
8.	690010075	-do-	Kamla Prasad	10th	-do-	25.7.51	20.1.69	9.11.72	18.12.78
9.	688010043	-do-	Ranjit Singh	XI	-do-	14.3.49	28.10.68	16.11.72	6.12.78
10.	680040052	-do-	Muni Lal	Matric	-do-	8.1.50	4.8.68	3.3.73	5.12.78
11.	690040099	-do-	Garja Ram	Matric	-do-	8.4.50	28.5.69	3.3.73	5.12.78
12.	690040045	-do-	Bhandari Ram	Matric	-do-	22.3.48	29.5.69	3.3.73	21.12.79
13.	690040072	-do-	Des Raj	BA-I	-do-	14.4.50	13.8.69	3.3.73	23.12.79

14.	680030038	SI (Comp.)	Janam Chand	Matric	Dip in Pharmacy	5.8.50	11.11.68	5.3.73	6.12.78
15.	690030049	-do-	Balbir Singh	Hr. Sec.	-do-	17.11.49	9.8.69	19.3.73	23.12.78
16.	690020873	-do-	Jagdish Ram	X	-do-	17.4.50	9.8.69	19.3.73	30.12.78
17.	690050077	-do-	Inder Singh	Matric	-do-	—	9.8.69	19.3.73	1.1.78
18.	690050068	-do-	Upendra Singh	BA-I	-do-	3.7.48	27.11.69	19.3.73	27.12.78
19.	700020036	-do-	Anar Singh	Matric	-do-	10.11.49	30.6.70	19.3.73	27.12.78 (AN)
20.	70800028	-do-	Subhash Chander	PUC	-do-	—	3.7.70	19.3.73	30.11.78
21.	680070067	-do-	K.D. Bhatt	Inter	-do-	4.7.44	12.1.68	1.4.73	30.11.78
22.	680060098	-do-	Jagdish Raj	Matric	-do-	16.4.47	19.11.68	2.4.73	18.12.78
23.	690080011	-do-	Jiwan Singh	Inter	-do-	2.1.47	1.7.69	13.8.74	7.12.78
24.	660060031	-do-	Mehar Singh	Matric	-do-	15.3.47	14.1.66	26.9.75	8.12.78
			PROMOTED VIDE DTE. GENL. ORDER NO. 1.19014/7/80-ESTT. I DATED 28.1.81						
25.	690080038	-do-	S.R. Chaursia	B.Sc.	-do-	3.3.45	11.9.69	1.7.73	14.1.79
26.	650060092	-do-	Hoshiar Singh	Hr. Sec.	-do-	1.7.47	12.11.65	2.4.73	14.1.79
27.	670010098	-do-	Dev Raj	B.A.	-do-	—	2.9.67	2.4.73	14.1.79
28.	700040073	-do-	Tika Ram Pal	Inter	-do-	2.9.48	1.8.70	22.2.76	14.1.79
29.	690030058	-do-	Jiwa Nand	Matric	-do-	25.5.48	25.5.69	1.7.73	14.1.79
			PPROMOTED VIDE DTE. GENL. ORDER NO. I. 19014/6/86 ESTT. B DATED 31.8.87						
30.	690050041	-do-	Ram Naresh Diwedi	Hr. Sec.	-do-	26.1.49	24.9.69	1.4.73	14.1.79
31.	698030046	-do-	H.V. Bhatt	Inter	-do-	2.10.50	23.9.69	18.7.73	14.1.79
32.	718010012	-do-	Raje Singh	Inter	-do-	5.2.51	8.1.71	29.11.73	-do-

1	2	3	4	5	6	7	8	9	10
33.	680050075	SI (Comp.)	Jayati Prasad	Inter	Dip in Pharmacy	4.8.47	13.11.68	13.8.74	14.1.79
34.	678010112	-do-	Joga Singh	Inter	-do-	4.8.47	1.4.67	10.4.75	-do-
35.	670060113	-do-	Pratap Singh	Hr. Sec.	-do-	13.12.48	1.7.67	10.4.75	-do-
36.	690060046	-do-	K.J. Thomas	SSLC	-do-	23.7.45	17.6.69	10.4.75	-do-
37.	690040197	-do-	Sangat Ram	Matric	-do-	20.11.47	27.5.69	18.4.75	-do-
38.	670010053	-do-	Banwari Singh	Matric	-do-	14.6.50	23.4.67	11.6.75	-do-
39.	710020029	-do-	Rajender Singh	Inter	-do-	8.12.49	15.3.71	11.6.75	-do-
40.	678010121	-do-	Jagdish Singh	High School	-do-	3.2.47	1.12.67	19.7.75	-do-
41.	668010052	SI Comp.)	Sobat Singh	Matric	Dip. in Pharmacy	4.4.49	19.7.68	19.7.75	14.1.79
42.	690010084	-do-	Lakhi Ram	Matric	-do-	24.5.51	25.9.69	19.7.75	-do-
43.	710020011	-do-	Puran Singh	Inter	-do-	5.1.50	24.5.71	16.9.76	1.10.79
44.	670080515	-do-	Pushkar Dutt Joshi	Matric	-do-	19.6.49	19.6.67	11.11.82	1.12.85

Sd/-
(SECTION OFFICER)
ESTT. B. SEC.

APPENDIX III

(*Vide* para 13 of the Report)

Statement Showing the Names of Cantonment Boards and the Objections Raised by them

Sl. No.	Name of Cantt. Board	Objections raised by them
1.	JHANSI	Annulation of Rule 9 is likely to dilute the powers of the Cantonment Board and President of creating temporary posts for emergency purposes. Hence the Board is of the opinion that the higher authorities be requested not to abolish Rule 9 of CFSR.
2.	DEHRADUN	The Board recommend that Rule 9 of CFSR which gives power to the President Cantt. Board to appoint employees for short duration should not be withdrawn. Rule as it is provide that the action taken under section 9 needs confirmation by the GOC-in-C, which is enough rider to check its proper use.
3.	AGRA	The rule should not be deleted, because in the extraordinary circumstances like an apidemic it may be necessary to make appointments for short period whereas it is quite easy to make appointment of lower grade employees on daily wages, but it may not be possible to appoint doctors, nurses and sanitary supervisors on daily wages. Therefore, the provisions of Rule 9 should continue.
4.	KIRKEE	The Board expressed protest about the proposed abolition of Rule 9, the provision of which are meant to cater to various contingencies. A representation be sent to Government against the abolition.
5.	JABALPUR	The Board strongly objected to the proposed omission of Rule 9 of CFSR. 1937 and resolved that it should not be abolished.
6.	SAUGOR	The Board expresses great concern over the proposal of abolition of Rule 9 of CFSR 1937 as appointment under Rule 9 is made only in exceptional and unavoidable circumstances. Deletion of Rule 9 is absolutely against the interest of the Board. As such the Board recommends that the proposed amendment may not be carried out.

MINUTES

APPENDIX IV

Minutes of the Thirteenth Sitting of the Committee on Subordinate Legislation (Tenth Lok Sabha) (1991-92)

The Committee met on Thursday, 12 November, 1992 from 15.15 hours to 15.45 hours.

PRESENT

Shri Somnath Chatterjee — *Chairman*

MEMBERS

2. Shri R. Dhanuskodi Athithan
3. Shri Chetan P.S. Chauhan
4. Shri A. Venkata Reddy
5. Shri Tara Singh

SECRETARIAT

Shri Ram Kumar — *Under Secretary*

** ** **

4. The Committee then considered Memoranda Nos. 40 to 46 as follows:

(i) The Ministry of Home Affairs (Group 'D' Posts) Recruitment (Amendment) Rules, 1992 (GSR 37 of 1992) — (Memorandum No. 40)

The Committee noted that a review of the existing recruitment rules governing Group 'D' posts in the Ministry of Home Affairs had already been proposed with a view to bringing forward fresh recruitment rules after incorporating the necessary changes, in supersession of the existing ones. The Committee did not, therefore, press for an amendment of the notification under reference for incorporating the requisite foot-note. However, the Committee noted that despite their categorical findings in this regard, the Ministry had failed to indicate particulars of the previous amendments by way of a foot-note to the amending notifications. The Committee decided to reiterate their earlier recommendation made in para 87 of their Sixth Report (Seventh Lok Sabha) in this regard and to ask the Ministry to evolve suitable safeguards against recurrence of such lapses.

(ii) The Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 (GSR 53 of 1992) — Memorandum No. 41)

The Committee noted that the Ministry of Water Resources had already issued the requisite corrigendum with a view to identify the Central Water Commission (Non-Ministerial Group 'C' Posts) Recruitment Rules, 1992 as

an amendment to the principal recruitment rules of 1982. However, the Ministry had moved in the matter only when the error was so pointed out to them by the Committee. The Committee observed that such a state of affairs reflected poorly on the functioning of the Ministry and that scant attention was being paid to the formulation of amendments to the statutory rules. The Committee desired the Ministry to evolve suitable safeguards to avoid recurrence of such a lapse.

(iii) The Central Industrial Security Force (Fourth Amendment) Rules, 1990 (GSR 1 of 1991)—(Memorandum No. 42)

(A)

The Committee noted the assurance of the Ministry of Home Affairs that due care would be taken by them in future to avoid this kind of error while sending rules to the press in the last month of the year. The Committee hoped the Ministry would keep up their assurance to the Committee.

(B)

The Committee did not consider the reply of the Ministry of Home Affairs as satisfactory. The Committee decided to ask the Ministry to do away with the existing practice of publishing the amendments to the Central Industrial Security Force Rules under different sections of the gazette forthwith and that any further amendments in this behalf must be notified in the same section in which the original rules were published, on a uniform pattern.

(C)

The Committee noted that consequent upon the conversion of the Central Industrial Security Force into an Armed Force of the Union by Act 14 of 1983, an exercise for issuance of a comprehensive order was already underway. The Committee desired the Ministry to accelerate the process of finalisation and notify the proposed consolidated order at the earliest curtailing any further delay in the matter.

(iv) ** ** ** **

(v) The Visakhapatnam Port Trust Employees' (Allotment of Residences) Amendment Regulations, 1992 (GSR 52-E of 1992)—(Memorandum No. 44)

The Committee observed that in para 45 of their Third Report (First Lok Sabha), they had already emphasized that whenever any amendment in the rules is made, the SRO numbers of the previous amendments or the original rules should be cited in a foot-note. If the number of previous amendments is large, reference in the foot-note may be given only to the last amendment. Since the Ministerial file numbers and dates were of little

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**Omitted portion of the minutes are not covered in the Report.

relevance for the purpose of keeping track of the amendments made from time to time, the Ministry would do well to incorporate in the foot-note the particulars of amending notifications in terms of official gazette numbers together with dates of publication only. The Committee hoped the Ministry of Surface Transport would evolve suitable safeguards against recurrence of such lapses.

(vi) ** ** **

(vii) The employees' Provident Funds (Amendment) Scheme, 1991 (GSR 343 of 1991)—(Memorandum No. 46)

The Committee observed that the Ministry of Labour had not taken up the matter connected with the amendment to the statutory 'Orders' with the urgency and seriousness it deserved as would reveal from the lackadaisical manner in which the two notifications had been dealt with. The Committee expected the Ministry to be careful enough in processing the vital matters affecting quite a large number of Employees' Provident Fund beneficiaries and desired them to evolve suitable measures to plug any loopholes in the system so as to cut short the procedural delays to the minimum. The Committee also observed that the Ministry should as well be prompt in replying to the references made by the Parliamentary Committee, for in the instant case, they had taken more than six months in furnishing the information to the Committee.

The Chairman thanked the Members of the Committee for extending their fullest co-operation and keen participation in the proceedings of the Committee at all times and maintain most congenial atmosphere for the deliberations of the Committee.

The Committee then adjourned

**Omitted portions of the Minutes are not covered in the Report.

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1992-93)

The Committee met on Friday, 22 January, 1993 from 15.00 to 15.35 hours.

PRESENT

Shri Somnath Chatterjee — *Chairman*

MEMBERS

2. Shri Frank Anthony
3. Shri R. Dhanuskodi Athithan
4. Shri Ram Singh Kashwan
5. Shri Guman Mal Lodha
6. Shri Ram Niwas Mirdha
7. Shri Shravan Kumar Patel
8. Shri Mohan Singh
9. Shri Tara Singh

SECRETARIAT

1. Shri S.C. Gupta—*Joint Secretary*
2. Shri R.K. Chatterjee— *Deputy Secretary*
3. Shri Ram Kumar—*Under Secretary*

3. The Committee then considered the memoranda Nos. 47—54 as follows:—

(i) The Cantonment Fund Servants (Amendment) Rules, 1991 (SRO 66 of 1991)—(Memorandum No. 47)

4. The Committee noted that the Ministry had already issued instructions to the effect that the public notices inviting comments on the draft amendments to the rules should prescribe for reckoning the period of 60 days from the date on which the copies of the gazette. The Committee expected the Ministry of Defence to be ever watchful and to take all necessary steps to ensure that adequate opportunity was given to the public for study and sending their comments on the draft amendment rules and the period prescribed for the purpose was not rendered just illusory.

(ii) *The Indo-Tibetan Border Police, Sub-Inspector (Compounder/ Stores/Pharmacist) Recruitment Rules, 1992 (GSR 104 of 1992)—Rule 5 regarding other conditions of Service—(Memorandum No. 48)*

5. The Committee observed that as the Indo-Tibetan Border Police personnel was governed by the Central Reserve Police Force Act of 1949, such personnel was bound to follow the provisions of that Act and the rules made thereunder automatically. The Committee did not also see any force in the argument that similar provisions had already crept into several other recruitment rules for the posts in the Indo-Tibetan Border Police. The Committee desired the Ministry of Home Affairs to omit rule 5 (regarding other conditions of service) of the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules and the identical provisions occurring in the other recruitment rules, at the earliest.

(iii) *The ITBP, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 (GSR 104 of 1992)—Column 2 of the Schedule appended thereto—(Memorandum No. 49)*

6. The Committee noted that the Indo-Tibetan Border Police, Sub-Inspector (Compounder/Stores/Pharmacist) Recruitment Rules, 1992 came into force on 7 March, 1992 but as many as 44 appointments had already been made on *ad hoc* basis and also regularised with retrospective effect right from December, 1978 onwards without due legal authority though the Committee were not averse to the regularisation of staff appointed on *ad hoc* basis, they uphold that the recruitment rules brought out for the purpose should as well reflect the true and correct position. The Committee desired the Ministry of Home Affairs to take necessary corrective action, in consultation with the Ministry of Law, for incorporation of the suitable saving clause in the recruitment rules of 1992 with a view to impart validity to the action already taken with retrospective effect.

(iv) to (vi) ** ** **

(vii) *The Ministry of Surface Transport (Transport Wing) Senior Analyst (Work Study) Recruitment Rules, 1992 (GSR 90-E of 1992)—(Memorandum No. 53)*

7. The Committee noted that the Ministry of Surface Transport had agreed to amend the Senior Analyst (Work Study) Recruitment Rules to provide for reservations for Scheduled Castes, Scheduled Tribes and other special categories of persons on the usual lines. The Committee desired the Ministry to do the needful expeditiously.

**Omitted portion of the Minutes are not covered on the Report.

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1992-93)

The Committee met on Friday, 26 February, 1993 from 15.00 to 15.45 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Chhitubhai Gamit
3. Dr. K.D. Jeswani
4. Shri Ram Singh Kashwan
5. Shri Shravan Kumar Patel
6. Shri Mohan Singh
7. Shri Tara Singh
8. Kumari Frida Topno
9. Shri Ratilal Kalidas Verma

SECRETARIAT

1. Shri R.K. Chatterjee —*Deputy Secretary*
2. Shri Ram Autar Ram—*Under Secretary*

2. The Committee considered the draft Seventh Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Tara Singh, M.P. to present the Report to the House.

** ** **

The Committee then adjourned to meet again on 15 March, 1993.

**Omitted portions of the Minutes are not covered by this Report.